

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION**

NETCHOICE, LLC,	:	
	:	
	:	
<i>Plaintiff,</i>	:	Case No. 2:24-cv-00047
	:	
v.	:	Chief Judge Algenon L. Marbley
	:	
DAVE YOST, in his official capacity as Ohio	:	
Attorney General,	:	
	:	
<i>Defendant.</i>	:	

NOTICE OF SUPPLEMENTAL EVIDENCE

Defendant Ohio Attorney General Dave Yost respectfully submits the following evidence in supplementation to his Memorandum in Opposition to Plaintiff NetChoice LLC's Motion for Preliminary Injunction.

On January 31, 2024, the chief executive officers of three NetChoice members gave congressional testimony in a hearing before the United States Senate's Judiciary Committee. Big Tech and the Online Child Sexual Exploitation Crisis: Hearing Before the S. Judiciary Comm., 118 Cong. (Jan. 31, 2024).¹ Specifically, testimony was given by (1) Mark Zuckerberg, CEO of Meta Platforms (parent company of Facebook and Instagram), (2) Eric Spiegel, CEO of Snap, Inc. (parent company of Snapchat), and (3) Linda Yaccarino, CEO of X (formerly Twitter). *See id.* Attorney General Yost submits the recorded congressional hearing testimony as evidence and specifically identifies the following testimony for the court's consideration:

¹ An official transcript for the hearing does not yet appear to be available, but a link to the full testimony in video format may be found at <https://www.judiciary.senate.gov/committee-activity/hearings/big-tech-and-the-online-child-sexual-exploitation-crisis>

(Video timestamp – 43:08)

MR. ZUCKERBERG: I hope we can have a substantive discussion today that drives improvements across the industry, including legislation that delivers what parents say they want, a clear system for age verification and control over what apps their kids are using. Three out of four parents want app store age verification and four out of five want parental approval of whenever teens download apps, we support this. Parents should have the final say on what apps are appropriate for their children and shouldn't have to upload their ID every time.

...

(Video timestamp – 2:16:08)

SEN. RICHARD BLUMENTHAL (D-CT): Well, I have a few more questions and let me ask others who are here because I think it's important to put you on record. Who will support the Kids Online Safety Act?² Yes or no. Mr. Citron.

...

(Video timestamp – 2:16:40)

SEN. RICHARD BLUMENTHAL (D-CT): Mr. Siegel.

MR. SPIEGEL: Senator, we strongly support the Kids Online Safety Act and we've already implemented many of its core provisions.

...

(Video timestamp – 2:17:02)

SEN. RICHARD BLUMENTHAL (D-CT): Ms. Yaccarino.

MS. YACCARINO: Senator, we support KOSA and will continue to make sure that it accelerates and make sure it continues to offer community for teens that are seeking that voice.

² The Kids Online Safety Act (“KOSA”) would generally apply to “covered platforms,” defined as a “social media service, social network, online video game (including educational games), messaging application, video streaming service, or an online platform that connects to the internet and that is used, or is reasonably likely to be used, by” an individual under the age of 17. Kids Online Safety Act, S.1409, 118th Cong., Sec. 2, §§ (3)(A) & (5).

KOSA would impose a duty of care upon covered platforms and require them to “act in the best interests of a user that the platform knows or reasonably should know” is under the age of seventeen “by taking reasonable measures in its design and operation of products and services to prevent and mitigate[,]” *inter alia*, “anxiety, depression, eating disorders, substance use disorders, and suicidal behaviors[,]” “[p]atterns of use that indicate or encourage addiction-like behaviors[,]” and “[s]exual exploitation and abuse.” *Id.*, Sec. 3, § (a)(1)-(4).

Respectfully submitted,

DAVE YOST
Ohio Attorney General

/s/ Julie M. Pfeiffer

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the U.S. District Court for the Southern District of Ohio on February 6, 2024, and copies were served upon all counsel of record by means of the Court's electronic filing system.

/s/ Julie M. Pfeiffer
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